

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

RAYMONDO LYNCH,

Petitioner,

v.

J.E. THOMAS,

Respondent.

No. 3:11-cv-01426-SU

OPINION AND ORDER

MOSMAN, J.,

On January 23, 2012, Magistrate Judge Sullivan issued her Findings and Recommendation (“F&R”) [6] in the above-captioned case recommending that I direct the Clerk of Court to strike the Petition for Writ of Habeas Corpus [1], the Declaration of Raymondo Lynch [2], and the Motion for Appointment of Counsel [3]. Magistrate Judge Sullivan further recommended that I advise plaintiff that should he wish to continue with this case, he must file an amended petition within 30 days, which: (1) does not incorporate any part of the prior pleading by reference; and (2) contains his notarized signature. Lastly, Magistrate Judge Sullivan recommended that I instruct plaintiff that all of his filings throughout the course of this action must contain notarized signatures, and that documents which do not will be stricken. Neither party filed objections.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Sullivan's recommendation, and I ADOPT the F&R [6] as my own opinion. The Clerk of Court shall strike the Petition for Writ of Habeas Corpus [1], the Declaration of Raymondo Lynch [2], and the Motion for Appointment of Counsel [3]. Plaintiff must file an amended petition within 30 days as detailed above. Plaintiff's future filings in this case must contain notarized signatures or they will be stricken.

IT IS SO ORDERED.

DATED this 13th day of February, 2012.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court